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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,118	12/06/2001	Hyuk-Jun Nam	0136/0K089US	8450

7590

05/13/2005

Darby & Darby  
805 Third Avenue  
New York, NY 10022

EXAMINER
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PARKIN, JEFFREY S

ART UNIT	PAPER NUMBER
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1648

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

10/009,118

Applicant(s)

NAM ET AL.

Examiner

Jeffrey S. Parkin, Ph.D.

Art Unit

1648

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 16 March, 2005, FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 04 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: 1-3,7,8,12-19,21 and 22.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☒ Other: See Continuation Sheet.

Jeffrey S. Parkin, Ph.D.  
Primary Examiner  
Art Unit: 1648

Continuation of 3. NOTE: Applicants are reminded that they cannot, as a matter of right, amend any finally rejected claims, add new claims after a final rejection (e.g., 23, 24), or reinstate previously canceled claims (see 37 CFR 1.116). The proposed amendment will require further consideration and/or searching and fails to place the application in better form for appeal. Claim 23 is deficient and fails to set forth any nexus between the measurement and identification of a putative packaging inhibitor. Claim 24 fails to distinguish over the prior art and fails to set forth any functional language (see claim 1).

Continuation of 11. does NOT place the application in condition for allowance because: Applicants' arguments are directed toward the amended subject matter, which has not been entered, and are therefore moot.

Continuation of 13. Other: Claims 1-3, 7, 8, 12-19, and 22 would be allowable if amended to correct obvious typographical/grammatical deficiencies and if submitted in a separate, timely filed amendment canceling the non-allowable claims (23, 24). For instance, claim 1 should read "the HIV nucleocapsid protein", "the HIV psi (psi symbol) sequence". Claim 2 should recite "the HIV nucleocapsid". Claim 8 should recite "the HIV psi" sequence. Claim 12 should state "A microorganism comprising ..." or something similar thereto. Claims 13 and 14 should read "the vector pJC1 expressing the HIV nucleocapsid protein" and "the HIV psi" sequence. Claim 15 should read "the vector pJC1 expressing the HIV nucleocapsid protein" and "the HIV psi" sequence. Claim 16 should read "the HIV psi" sequence. Claim 17 should state "the HIV nucleocapsid" and "the HIV psi" sequence. Claim 18 should read "A method for the identification of HIV packaging inhibitors" or "A method of screening for HIV packaging inhibitors" . .